

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL DOCKET NO.: 5:01CR21-V**

UNITED STATES OF AMERICA)
)
)
vs.)
)
GARY ALLEN BOST (1))
ROBERT JAMES ASBURY (6))
JOHNNY MACK BROWN (8))
Defendants.)
)

ORDER

THIS MATTER is before the Court upon Defendants' Motions For Resentencing pursuant to Amendment 657 of the United States Sentencing Guidelines, which became effective November 1, 2003. U.S.S.G. App. C. The Government concedes that retroactive application of Amendment 657 is proper pursuant to U.S.S.G. §1B1.10(c). Therefore, Defendants' motions are granted with respect to the request for resentencing.^{18 U.S.C. §3582(c).}¹

IT IS, THEREFORE, ORDERED THAT:

- 1) These matters are scheduled for hearing for purposes of resentencing on **February 21, 2006, at 2 pm, in the Statesville Division;**
- 2) The U.S. Marshal is directed to return Defendants Bost, Asbury, and Brown to the Western District of North Carolina **no later than January 20, 2006;**
- 3) The U.S. Probation Department is asked to prepare an amendment to the

¹ The Government's response only addresses Defendant Brown's motion for re-sentencing. However, since the motions of all three (3) Co-Defendants captioned above are identical and seek the same relief, the Court construes the Government's filing as a response and opposition (at least in part) to all three (3) motions.

The Government's proposal for recalculation of drug quantity and conversion differs from that suggested by Defendants. At this time, the Court does not make any findings regarding quantity or adjusted base offense level.

Presentence Report including a revised calculation regarding drug quantity consistent with the guidance provided within Amendment 657 and U.S.S.G. §2D1.1; and

4) The Clerk is directed to forward copies of this Order to the Defendants, Defense Counsel, U.S. Probation Office, U.S. Marshal Service, the United States Attorney's Office, and the Courtroom Deputy.

Signed: December 15, 2005



Richard L. Voorhees
United States District Judge



